

Applicant: Peter L. Cassidy Phillips
Serial No.: 10/634,031
Attorney Docket No. 1060A

REMARKS

Claims 1-20 are pending herein.

Claims 1-20 are rejected.

Claims 17-20 have been canceled.

Claims 1, 11 and 15 are currently amended.

Claim rejections under 35 U.S.C. 102

Claims 1-4, 7-8 were rejected under 35 U.S.C. 102(b) as being anticipated by Cosmano (U.S. Pat. No. 5,830,161).

It is respectfully submitted that Cosmano fails to disclose massage device comprising "a generally elongated massage body including at least one resilient layer and having a first end and a second end spaced-apart from said first end; spaced-apart *circular wheels carried by said first end and said second end, respectively, of said massage body...*", as set forth in amended claim 1 and defined by claims 2-4 and 7-8 as dependent from amended claim 1.

Therefore, it is respectfully submitted that Cosmano fails to render claims 1-4 and 7-8 under 35 U.S.C. 102(b). Reconsideration and allowance of claims 1-4 and 7-8 is therefore respectfully solicited.

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Claim rejections under 35 U.S.C. 103

Claims 5-6, 9-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over:
Cosmano (5,830,161) in view of Yamakawa et al. (U.S. Pat. No. 6,787,127).

As claims 5-6 and 9-10 depend from amended claim 1, and therefore, incorporate all of the limitations of amended claim 1, it is respectfully submitted that Cosmano in view of Yamakawa et al fails to teach or suggest a massage device comprising "a generally elongated massage body...having a first end and a second end spaced-apart from said first end; spaced-apart *circular* wheels carried by said *first end and said second end, respectively*, of said massage body; and wherein said massage body has a *continuous convex configuration between said first end and said second end of said massage body*", as set forth in amended claim 1 and defined by claims 5-6 and 9-10 as dependent from amended claim 1.

In contrast, Cosmano (Fig.1) teaches the use of non-circular roller disks (30) on first and second ends of a foot massager (10). Furthermore, neither Cosmano nor Yamakawa et al would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to provide a circular configuration to the roller disks (30), since this would inhibit the necessary stationary characteristic of the foot massager (col. 2, line 65 through col. 3, line 6 of Cosmano).

Moreover, Cosmano (Figs. 1 and 3) teaches that the convex configuration of the foot massager (10) is non-continuous between the roller disks (30) since it is interrupted by a ramp (26) between first and second ends of the foot massager (10). Neither Cosmano nor Yamakawa

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et al would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to modify the shape of the Cosmano foot massager in such a manner that the convex configuration of the foot massager is continuous between the first and second ends of the foot massager instead of being interrupted by the ramp (26).

Therefore, it is respectfully submitted that Cosmano in view of Yamakawa et al fails to render claims 5-6 and 9-10, as dependent from amended claim 1, obvious under 35 U.S.C. 103(a). Reconsideration and allowance of claims 5-6 and 9-10 is therefore respectfully solicited.

Claims 11, 15-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cosmano (5,830,161) in view of Douglas (U.S. Pat. No. 3,298,687).

It is respectfully submitted that Cosmano in view of Douglas fails to teach or suggest a massage device comprising "a generally elongated massage body...having a first end and a second end spaced-apart from said first end; spaced-apart *circular wheels carried by said first end and said second end, respectively, of said massage body*; wherein said massage body has a *continuous convex configuration between said first end and said second end of said massage body*; and a fabric cover surrounding said plurality of elastic layers and at least one compressive layer", as set forth in amended claim 11.

In contrast, Cosmano (Fig.1) teaches the use of non-circular roller disks (30) on first and second ends of a foot massager (10). Furthermore, neither Cosmano nor Douglas would provide

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any teaching, suggestion or motivation to a person of ordinary skill in the art to provide a circular configuration to the roller disks (30), since this would inhibit the necessary stationary characteristic of the foot massager (col. 2, line 65 through col. 3, line 6 of Cosmano).

Moreover, Cosmano (Figs. 1 and 3) teaches that the convex configuration of the foot massager (10) is non-continuous between the roller disks (30) since it is interrupted by a ramp (26) between first and second ends of the foot massager (10). Neither Cosmano nor Douglas would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to modify the shape of the Cosmano foot massager in such a manner that the convex configuration of the foot massager is continuous between the first and second ends of the foot massager instead of being interrupted by the ramp (26).

Additionally, neither Cosmano nor Douglas teaches or suggest providing a *fab. ic cover* on the sleeves (18) of the Cosmano foot massager (10).

Therefore, it is respectfully submitted that Cosmano in view of Douglas fails to render claim 11 obvious under 35 U.S.C. 103(a). Reconsideration and allowance of claim 11 is therefore respectfully solicited.

It is further respectfully submitted that Cosmano in view of Douglas fails to teach or suggest a massage device comprising "a generally elongated massage body...having a first end and a second end spaced-apart from said first end; spaced-apart *circular wheels carried by said first end and said second end, respectively, of said massage body...* wherein said massage body

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has a *continuous convex configuration between said first end and said second end* of said massage body", as set forth in amended claim 15 and defined by claim 16 as dependent from amended claim 15, for the same reasons as were set forth herein above with respect to claim 11.

It is further respectfully submitted that Cosmano in view of Douglas fails to teach or suggest a massage device comprising "a generally elongated massage body...spaced-apart circular wheels carried by said first end and said second end, respectively, of said massage body, said wheels having hubs, respectively, provided on [a] core and outer portions provided on said hubs, respectively...*a pair of bolts extending through said hubs of said wheels, respectively, and into said core; and a bolt coupling provided in said core and connecting said pair of bolts*", as set forth in amended claim 15 and defined by claim 16 as dependent therefrom.

In contrast, Cosmano teaches away from extending a pair of bolts through each roller disk (30, Fig. 3) and providing a bolt coupling in the core cylinder (28) to connect the bolts, since this would eliminate sufficient space for the central motor (44), drive shafts (46) and bearings (50) of the vibrator (42) in the core cylinder (28) of the Cosmano foot massager (10). It is noted that eccentric masses (48) are provided on the respective drive shafts (46), and the bearings (50) must contact the inner surfaces of the core cylinder (28) in order to transmit vibration from the drive shafts (46) to the core cylinder (28). Such substitution of the vibrator (42) with bolts would render the Cosmano foot massager unsatisfactory for its intended purpose [MPEP 2143.01(V)], since the vibrating function would be eliminated.

Furthermore, it is respectfully submitted that Douglas would fail to provide any teaching,

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suggestion or motivation to a person of ordinary skill in the art to replace the vibrator (42) of the Cosmano foot massager with bolts and a bolt coupling provided inside the core cylinder (28) of the Cosmano foot massager.

Therefore, it is respectfully submitted that Cosmano in view of Douglas fails to render claims 15 and 16 obvious under 35 U.S.C. 103(a). Reconsideration and allowance of claims 15 and 16 is therefore respectfully solicited.

Claims 17-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cosmano (5,830,161) in view of Douglas (3,298,687) and further in view of Schlagel (5,346,449).

It will be noted that claims 17-20 have been canceled.

Claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Cosmano (5,830,161) in view of Yamakawa et al (6,784,127) and Douglas (3,298,687).

As claim 12 depends from amended claim 11, and therefore, incorporates all of the limitations of amended claim 11, it is respectfully submitted that Cosmano in view of Yamakawa et al and Douglas fails to teach or suggest a massage device comprising "a generally elongated massage body...having a first end and a second end spaced-apart from said first end; spaced-apart *circular wheels carried by said first end and said second end, respectively, of said massage*

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body; wherein said massage body has a *continuous convex configuration between said first end and said second end of said massage body*; and a fabric cover surrounding said plurality of elastic layers and at least one compressive layer", as set forth in amended claim 11 and therefore defined by claim 12 as dependent from amended claim 11.

In contrast, Cosmano (Fig.1) teaches the use of non-circular roller disks (30) on first and second ends of a foot massager (10). Furthermore, none of the Cosmano, Yamakawa et al or Douglas patents would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to provide a circular configuration to the roller disks (30), since this would inhibit the necessary stationary characteristic of the foot massager (col. 2, line 65 through col. 3, line 6 of Cosmano).

Moreover, Cosmano (Figs. 1 and 3) teaches that the convex configuration of the foot massager (10) is non-continuous between the roller disks (30) since it is interrupted by a ramp (26) between first and second ends of the foot massager (10). None of the Cosmano, Yamakawa et al or Douglas patents would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to modify the shape of the Cosmano foot massager in such a manner that the convex configuration of the foot massager is continuous between the first and second ends of the foot massager instead of being interrupted by the ramp (26).

Additionally, none of the Cosmano, Yamakawa et al or Douglas patents teaches or suggests providing a *fabric cover* on the sleeves (18) of the Cosmano foot massager (10).

Therefore, it is respectfully submitted that Cosmano in view of Yamakawa et al

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and Douglas fails to render claim 12 obvious under 35 U.S.C. 103(a). Reconsideration and allowance of claim 12 is therefore respectfully solicited.

Claims 13-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cosmano (5,830,161) in view of Yamakawa et al (6,784,127) and Douglas (3,298,687) and Schlagel (5,346,449).

As claims 13 and 14 depend from amended claim 11, and therefore, incorporate all of the limitations of amended claim 11, it is respectfully submitted that Cosmano in view of Yamakawa et al, Douglas and Schlagel fails to teach or suggest a massage device comprising "a generally elongated massage body...having a first end and a second end spaced-apart from said first end; spaced-apart *circular wheels carried by said first end and said second end, respectively, of said massage body*; wherein said massage body has a *continuous convex configuration between said first end and said second end of said massage body*; and a fabric cover surrounding said plurality of elastic layers and at least one compressive layer", as set forth in amended claim 11 and therefore defined by claims 13 and 14 as dependent from amended claim 11.

In contrast, Cosmano (Fig.1) teaches the use of non-circular roller disks (30) on first and second ends of a foot massager (10). Furthermore, none of the Cosmano, Yamakawa et al, Douglas or Schlagel patents would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to provide a circular configuration to the roller disks (30), since this would inhibit the necessary stationary characteristic of the foot massager (col. 2, line 65 through

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col. 3, line 6 of Cosmano).

Moreover, Cosmano (Figs. 1 and 3) teaches that the convex configuration of the foot massager (10) is non-continuous between the roller disks (30) since it is interrupted by a ramp (26) between first and second ends of the foot massager (10). None of the Cosmano, Yamakawa et al, Douglas or Schlagel patents would provide any teaching, suggestion or motivation to a person of ordinary skill in the art to modify the shape of the Cosmano foot massager in such a manner that the convex configuration of the foot massager is continuous between the first and second ends of the foot massager instead of being interrupted by the ramp (26).

Additionally, none of the Cosmano, Yamakawa et al, Douglas or Schlagel patents teaches or suggests providing a *fabric cover* on the sleeves (18) of the Cosmano foot massager (10).

Therefore, it is respectfully submitted that Cosmano in view of Yamakawa et al, Douglas and Schlagel fails to render claims 13 and 14 obvious under 35 U.S.C. 103(a). Reconsideration and allowance of claims 13 and 14 is therefore respectfully solicited.

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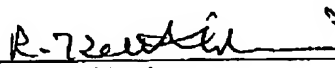
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Conclusion

Every effort has been made to amend applicant's claims in order to define his invention in the scope to which it is entitled. Accordingly, reconsideration and allowance of claims 1-16 is respectfully solicited.

Respectfully submitted,



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